

CORRECTED \* MINUTES

*(Subject to approval of the Study Group)*

JOINT INTERIM LAND-USE STUDY GROUP  
DECEMBER 20, 2007

CAPITOL ANNEX, ROOM 117  
BOISE, IDAHO

Legislative members present were Senator and Co-Chair Russ Fulcher, Representative and Co-Chair Cliff Bayer, Senator Stan Bastian, Senator Shirley McKague, Senator Jim Hammond, Representative Phil Hart, Representative Lynn Luker, Representative Fred Wood, Representative Les Bock and Representative Bill Killen. Senator Lee Heinrich was absent and excused. Ad hoc members present were Dan Chadwick, John Eaton, Jeremy Pisca and Anna Borchers-Canning. Ad hoc member Ken Harward was absent and excused. Paige Alan Parker of the Legislative Services Office was present as staff.

Also attending were Jerry Mason, representing the Association of Idaho Cities; Tim Tingey, representing the City of Pocatello; Benjamin Davenport, representing the Evans Keane law firm; Erin Bennett and John Watts, representing Veritas Advisors; Morton Bilbao, representing Connolly & Smyser Chartered; Phil Kushlan, representing the Capital City Development Corporation; Ryan Armbruster, representing Elam & Burke, PA and Capital City Development Corporation; John Tensen and Bruce Chatterton, representing the City of Boise; and Teresa Molitor and Tony Berns, representing the Lake City Development Corporation.

**Co-chair Senator Fulcher** called the meeting to order at 12:40 p.m.

**Representative Bock moved that the minutes of the Study Group's November 29, 2007, meeting be approved. Representative Killen seconded the motion. The motion passed on a voice vote without objection.**

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\* CORRECTIONS requested by Co-Chair Senator Fulcher as follows:

1. In original Minutes, page 4, paragraph 4, Representative Wood's motion, specific language on DRPAP471 is now included in these Corrected Minutes on page 4, paragraphs 5, 6, & 7, continuing on to top of page 5.
2. In original Minutes, page 4, paragraph 6, Representative Hart's motion, specific language on Item #10 is now included in these Corrected Minutes on page 5.
3. In original Minutes, page 5, paragraph 2, Representative Bock's motion on items #11-14, specific language is now included in these Corrected Minutes on page 6, paragraph 2.

**Co-Chair Senator Fulcher** stated that the purpose of the meeting was to consider recommendations to the Legislature and perhaps to local governments. He informed the Study Group that all the Study Group members were welcome to participate in the discussion, but that only the legislative members would be permitted to make and vote on motions. The discussion items attached to the agenda, a copy of which is available in the Legislative Services Office, would serve to focus the discussion, although members would be permitted to propose specific legislation. **Co-Chair Representative Bayer** stated that the Study Group should avoid getting hung up on specific wording of the discussion items. **Senator Fulcher** announced that he would chair the portion of the meeting dealing with annexation and that **Representative Bayer** would chair the portion of the meeting dealing with urban renewal.

**Senator Fulcher** read the first four annexation discussion items: (1) expressly limit annexation of any class to the municipality's area of impact; (2) expressly permit annexations outside the area of impact solely upon the request (not consent) of the property owner(s) affected; (3) change the Local Land Use Planning Act to provide for a body of three, rather than nine, to resolve an impact area impasse between a city and county(s); and change the Local Land Use Planning Act to provide that a failure to respond with a detailed counter proposal by a county to a city impact area proposal within six months shall be deemed an acceptance of the city's proposal. Both proposal and counterproposal, if any, shall be lodged with the county clerk's office, and date stamped when physically received. The Study Group members discussed these items.

**Senator Bastian** moved that annexation discussion item #2 be modified to read, "Expressly permit annexations outside the area of impact upon the consent of the property owner(s) affected provided that the city has established a comprehensive plan for the area to be annexed," and be adopted by the Study Group as a recommendation to the Legislature. **Representative Killen** seconded the motion. After further discussion, the motion passed on a voice vote without objection.

**Senator Fulcher** led a discussion on annexation item #5: "Require that any municipality that annexes property must provide sewer and water services within two (2) years of the date of annexation. Otherwise, such a situation could be considered an 'Unfair Practice' per Idaho Code 48-603."

**Senator Fulcher** moved that annexation discussion item #5 be modified to read, "Require that any municipality that annexes property must provide the services it is charging for within three (3) years of the date of annexation. Otherwise, such a situation could be considered an unfair practice," and be adopted by the Study Group as a recommendation to the Legislature. **Senator McKague** seconded the motion. No vote was taken on this motion.

As a substitute motion, **Representative Luker** moved that annexation discussion item #5 be modified to read, "Require that any municipality that annexes property must, as part of the annexation plan, specify the services to be provided and a time frame in which those

services are to be provided,” and be adopted by the Study Group as a recommendation to the Legislature. Representative Bock seconded the motion. Following further discussion, the motion passed on a voice vote without objection.

**Representative Bayer** led a discussion on annexation item #6: “Provide that the act of connecting to city sewer or water services does NOT imply consent to annexation for pre-existing property owners, until a change in ownership occurs.” DRMLI235, a copy of which is available in the Legislative Services Office, was distributed to the Study Group members.

**Representative Bayer** moved that annexation item #6 be modified to read, “Provide that the act of connecting to city sewer or water services does NOT imply consent to annexation for preexisting property owners, until a change in ownership occurs, with the language of DRMLI235 to serve as an example of the language to be used in Idaho Code,” and be adopted by the Study Group as a recommendation to the Legislature.

**Representative Hart** seconded the motion. Following further discussion the motion carried on a five aye to three nay vote.

**Senator Bastian** led a discussion on annexation item #8: “Provide potential home buyers better ‘notification’ that property within areas of impact may be subject to annexation.” DRPAP465, a copy of which is available in the Legislative Services Office, was distributed to the Study Group members.

**Senator Bastian** moved that annexation item #8 be modified to read, “Provide potential home buyers better ‘notification’ that property within areas of impact may be subject to annexation, with the language in DRPAP465 to serve as an example of the language to be used in Idaho Code with ‘larger font’ being 14 point font,” and be adopted by the Study Group as a recommendation to the Legislature. Representative Killen seconded the motion. Following further discussion the motion passed on a voice vote without objection.

**Senator McKague** began a discussion on annexation item #7: “Require the approval of category C (i.e.: ‘forced’) annexation by a simple majority of citizens to be annexed.”

**Senator McKague** moved that annexation item #7 be adopted by the Study Group as a recommendation to the Legislature. Representative Bayer seconded the motion. Following further discussion, the motion failed on a voice vote.

**Representative Luker** led a discussion on annexation item #9: “Change annexation law (50-222) to require category B or C annexations to be approved by a majority of the County Commissioners of the county for which the annexation is proposed. If the County Commissioners take no action within ninety (90) days of the (city’s) request date for the annexation, the annexation will be deemed approved.” DRPAP470, a copy of which is available in the Legislative Services Office, was distributed to the Study Group members.

**Representative Luker moved that annexation item #9 be modified to read, “Change annexation law (50-222) to require category B or C annexations to be approved by a majority of the County Commissioners of the county for which the annexation is proposed. If the County Commissioners take no action within ninety (90) days of the (city’s) request date for the annexation, the annexation will be deemed approved, with the language in DRPAP465 to serve as an example of the language to be used in Idaho Code,” and be adopted by the Study Group as a recommendation to the Legislature. Representative Bayer seconded the motion. Following further discussion, Representative Luker withdrew the motion with the permission of the second.**

**Representative Luker moved the following: “The Study Group recommends that the Legislature recommend that a Study Group be established to investigate the efficacy of area of impact and comprehensive plan statutes.” Representative Killen seconded the motion. Following further discussion, the motion passed on a voice vote without objection.**

The Study Group turned its attention to urban renewal. DRPAP472, a copy of which is available in the Legislative Services Office, was distributed to the Study Group members.

**Representative Wood** stated that urban renewal discussion items (4) through (7), dealing with accountability, could be addressed together. These discussion items state: (4) “change Urban Renewal Law to pay commissioners as other commissioners in the state are paid (usually this is about \$50.00 per day). This brings in a whole different level of sunshine and scrutiny than unpaid commissioners;” (5) “change Urban Renewal Law to require each Urban Renewal District to be born, live and then die. An Urban Renewal Agency may have as many districts as it is allowed by the statute, but not allowed to morph through eternity;” (6) “change Urban Renewal Law (50-2006) to require that URD board member terms be staggered so no more than two (2) commissioner positions shall expire in the same year over the life of the URD and that no commissioner may serve more than ten (10) years;” and (7) “change Urban Renewal Law so that supplemental school levies, local highway district levies and other local levies are exempt from inclusion within the URD tax revenues.” DRPAP 471, a copy of which is available in the Legislative Services Office, was distributed to the Study Group members.

**Representative Wood moved that the Study Group adopt DRPAP471 as a recommendation to the Legislature. DRPAP471 states:**

**Relating to Urban Renewal and Economic Development; stating findings of the Joint Interim Land-Use Study Group and encouraging the 2008 Idaho Legislature to make appropriate changes to the Idaho Urban Renewal/Economic Development law to exempt funds from a voter approved bond issue or special levy from the tax available to an Urban Renewal District, and encouraging the Legislative Council to continue the Joint Interim Land-Use Study Group during the 2008 interim session.**

**Be It Resolved by the Joint Interim Land-Use Study Group:**

**WHEREAS, the Urban Renewal/Economic Development law in Idaho is intended to aid cities and counties in economic development; and**

**WHEREAS, the existence of an Urban Renewal District should not cause an increase in property taxes or tax rates; and**

**WHEREAS, concerns have surfaced relative to the length of time that an urban renewal district may exist, for what the proposed increment may be expended and the specificity of a District's urban renewal plan.**

**NOW, THEREFORE, BE IT RESOLVED by the members of the Joint Land-Use Study Group, that the 2008 Idaho Legislature be encouraged to make appropriate changes to the Idaho Urban Renewal/Economic Development law to exempt funds from a voter approved bond issue or special levy from the tax available to an Urban Renewal District.**

**BE IT FURTHER RESOLVED, that the Legislative Council be encouraged to continue the Joint Interim Land-Use Study Group during the 2008 interim session so that it may make further recommendations for refinements to the Urban Renewal/Economic Development law so that appropriate and specific guidance in that law is provided**

**Senator Bastian seconded the motion. Following further discussion, the motion passed on a voice vote without objection.**

**Representative Hart** led a discussion on urban renewal item #10: “Provide that URD boundaries be limited to include only areas of similar character and that ‘shoestring’ boundary configurations NOT be allowed.”

**Representative Hart moved that urban renewal item #10, “provide that URD boundaries be limited to include only areas of similar character and that ‘shoestring’ boundary configurations NOT be allowed,” be adopted by the Study Group as a recommendation to the Legislature. Representative Luker seconded the motion. Following further discussion, the motion passed with six aye votes and three nay votes.**

The Study Group then addressed urban renewal discussion items 11 through 14: (11) “change Urban Renewal Law (50-2903(e)) which deals with ‘competitively disadvantaged border areas’: ‘such areas must be part of a community with an unemployment rate of twice the state average or has experienced a negative population growth rate in at least one of the last three years;’” (12) “change Idaho Code to mandate all property tax notices for property in URD areas to itemize taxes and fees associated with such URD’s to be specifically disclosed;” (13) “change Urban Renewal Law to provide for distribution of a portion of the revenues derived from a revenue allocation area to taxing districts levying taxes upon property within the revenue allocation area except for the municipality that established the URA, to be used by those entities in support of the plan. Such distribution shall be at the discretion of the agency;” and (14) “change Urban Renewal Law such that all taxes levied by the taxing district or on its behalf on taxable property located within the taxing district, including property within the revenue allocation area, that is levied after the effective date of this legislation, as a result of specific voter approval for that levy, except for a voter-approved permanent levy pursuant to subsection (f) of section 63-802,

Idaho Code; provided however, for property within the revenue allocation area only that portion of the levy which is greater than the levy in effect upon the effective date of the revenue allocation provisions as defined in subsection (2) of section 50-2906, Idaho Code.”

**Representative Bock moved that urban renewal discussion items 11, 12, 13 and 14: “change Urban Renewal Law (50-2903(e)) which deals with ‘competitively disadvantaged border areas’: ‘such areas must be part of a community with an unemployment rate of twice the state average or has experienced a negative population growth rate in at least one of the last three years;” “change Idaho Code to mandate all property tax notices for property in URD areas to itemize taxes and fees associated with such URD’s to be specifically disclosed;” “change Urban Renewal Law to provide for distribution of a portion of the revenues derived from a revenue allocation area to taxing districts levying taxes upon property within the revenue allocation area except for the municipality that established the URA, to be used by those entities in support of the plan. Such distribution shall be at the discretion of the agency;” and “change Urban Renewal Law such that all taxes levied by the taxing district or on its behalf on taxable property located within the taxing district, including property within the revenue allocation area, that is levied after the effective date of this legislation, as a result of specific voter approval for that levy, except for a voter-approved permanent levy pursuant to subsection (f) of section 63-802, Idaho Code; provided however, for property within the revenue allocation area only that portion of the levy which is greater than the levy in effect upon the effective date of the revenue allocation provisions as defined in subsection (2) of section 50-2906, Idaho Code,” be incorporated within the resolution stated in DRPAP471, previously adopted by the Study Group as a recommendation to the Legislature. Representative Killen seconded the motion. After further discussion, the motion passed on voice vote without objection.**

**Co-Chairs Senator Fulcher and Representative Bayer** joined in thanking the legislative and ad hoc members for their service on the Study Group and for their consideration of the complex issues addressed by the Study Group.

**Senator Fulcher** adjourned the meeting at 4:50 p.m.